



COMMITTEE of the WHOLE

CITY COUNCIL

MINUTES
May 23, 2011
5:00 P.M.

COUNCIL MEMBERS PRESENT:

D. Reed, S. Marmarou, J. Waltman, V. Spencer, D. Sterner, F. Acosta, M. Goodman-Hinnershitz

OTHERS PRESENT:

L. Kelleher, S. Katzenmoyer, F. Denbowski, C. Geffken, C. Younger, W. Heim

Mr. Spencer called the Committee of the Whole meeting to order at 5:05 p.m.

I. Executive Session - Personnel

Council entered executive session at 5:07 pm to discuss a Police personnel issue.

Mr. McMahon arrived at 5:17 pm.

Council exited executive session at 5:24 pm.

II. Executive Session – Water Authority Contract Negotiations

John Miravich joined the meeting at this time.

Council entered executive session at 5:25 pm to discuss contract negotiations.

Council exited executive session at 5:57 pm.

III. Executive Session – Charter Board Investigation #31 Appeal

Council entered executive session at 5:58 pm to discuss litigation.

Council exited executive session at 6:17 pm.

IV. Sewer Fund Investigation

Mr. Spencer stated that the letters have been sent and most responses have been received. Ms. Kelleher stated that responses were not received from Tammi Kipp and Dawn Cieniewicz.

Mr. Spencer stated that most respondents claimed to have no information and questioned the next steps Council would like to take.

Ms. Kelleher questioned if the information from Mr. Geffken would satisfy Council.

Ms. Goodman-Hinnershitz expressed her belief that the written responses do provide background information and that it would be unproductive to pursue the issue further.

Mr. Sterner questioned the additional \$15 million in transfers made which were not repaid. Mr. Geffken stated that Herbein has determined that no repayment is needed for these transfers.

Mr. Sterner questioned why the practice of making these transfers continued when the Administration should have seen that the amounts could no longer be repaid. Mr. Geffken explained that all funds were contained in one account and that the extra transfers were used to balance the budget and were treated as donations. He stated that the City repaid them when it was able and that these transactions are being cleared based on the City's audit.

Mr. Waltman cautioned Council about putting these responses on the record.

Mr. Robinson arrived at this time.

Mr. McMahon noted that he found it interesting that Mr. Churchill claimed to have no knowledge of the transfers.

Mr. Waltman expressed his belief that the respondents know more than they were willing to put in writing and that they needed to know the cash position of the City. Mr. Geffken stated that all funds were in one account and that the City always had funds available.

Mr. Waltman expressed his belief that the respondents' stating they did not know about these transactions shows a problem with controls. He noted his concern with control issues. He again recommended that Council not submit these comments as part of the public record.

Mr. Geffken stated that the information covered in his memos dates to 2007.

Ms. Goodman-Hinnershitz stated that financial controls should be tested by the auditor. She suggested that the City increase its demands for the annual audit. Mr. Geffken stated that in addition, City Council is receiving monthly financial updates.

Ms. Goodman-Hinnershitz suggested using the information received to form future recommendations.

Mr. Waltman stated that the information received is not useful.

Mr. Marmarou stated that a similar situation happened under Mayor Kubacki and controls were increased at the time to ensure it did not happen again.

Ms. Reed expressed the belief that these responses are incomplete and unsatisfactory. She stated that accepting them would set a precedent that this type of response is acceptable and suggested that they not be made part of the public record.

Mr. Waltman stated that he did not support the ordinance as he felt responses would be just as received. He stated that the responses are unacceptable and that the concern regarding missing funds has been addressed.

Mr. Spencer stated that Council has subpoena power. Mr. Younger stated that there is no guarantee that additional information will be gathered.

Mr. Spencer stated that as no funds are missing there is no criminal action to be taken. He questioned Council's next steps.

Mr. Sterner expressed his belief that Council not move forward as no new information will be received. He stated that he believes these responses should be part of the public record.

Mr. Acosta expressed his belief that the responses are unrealistic and irresponsible. He stated that Council has the responsibility to ensure that this situation does not occur again in the future. He stated that all responses should be included in the public record to reflect these professionals' competency.

Ms. Reed stated that the City is also revisiting another problem from the past – uncollectible CD loans. She expressed her belief that if these responses are accepted that it is dumbing-down this Council and future Councils who initiate investigations. She stated that this would decrease public trust.

Mr. Marmarou stated that the City owes the public an answer and that these responses do not provide that answer.

Ms. Goodman-Hinnershitz stated that the responses would need to be formalized into a findings report which could state that the responses were insufficient and that they are unacceptable.

Mr. Marmarou stated that the City had to appear in Court to get permission for the unfunded debt. He suggested that the investigation be turned over to the District Attorney who could convene a grand jury.

Mr. Acosta expressed his belief that the people who responded should have been fully involved in the situation. If they respond "I don't know" the public should know that since these professionals are not accountable. He suggested that the responses be made part of the public record.

Mr. Spencer stated that the body must decide on a course of action. He stated that there is currently no consensus. This item will be discussed further on Monday, June 6 at the conclusion of the Committee meetings.

Bruce Becker joined the meeting at this time.

V. Agenda Review

Council reviewed this evening's agenda including the following:

- Resolutions settling the zoning appeal for 132 S 9th St

Mr. Younger stated that this resolution will enter the settlement agreement in this matter which will allow the preparation and serving of food at this establishment and set the number of residents at seven and the number of supervisors at two

- Resolution regarding the loan for the Elm View Apartments

Mr. Geffken stated that the Administration is requesting that this resolution be tabled. He stated that this resolution would forgive past loans which causes budget implications.

Mr. Becker stated that the apartments are rented to low income residents and that the current owners are losing approximately \$100,000 per year which is causing the property to deteriorate. He stated that if this resolution is passed that he would use the \$70,000 grant to make improvements to the property, such as replace the windows.

Mr. Geffken stated that he learned of this transaction late last week and has been in discussions with staff. He stated that discussions are incomplete and the resolution is not finalized.

Mr. Spencer inquired about this transaction with the Redevelopment Authority as it is in Ricktown. He stated that in light of its location, it must succeed. He stated that this resolution would forgive approximately \$200,000. He explained that \$185,000 is due the City and that the City is in first position to recoup the funds. He stated that the City repeatedly gives up this position and that Council must understand all the options and the complete financial situation.

Mr. Acosta stated that Council finding out about these types of issues at the 11th hour is problematic. He stated that there are communication problems.

Mr. Spencer stated that the Redevelopment Authority was also unaware of this transaction. He stated that the Redevelopment Authority is currently working on plans for properties inside the Ricktown area. He stated that Council is repeatedly asked to forgive loans.

Mr. Becker explained that the forgiveness would be for \$150,000 and that he would be paying the rest of the amount.

Mr. Spencer stated that this is taxpayer money and he does not feel sympathetic to the owner. He stated that he and the rest of Council must look out for what is in the best interest of the City. He stated that Council is the steward of City funding and he supports the Administration's request to table the resolution.

Mr. Becker stated that he is a responsible landlord who lives in the area. He stated that he has the tools and knowledge to make this project a success. He stated that he has a small window as the settlement of the building is approaching.

- Resolution marking CD loans as uncollectible

Mr. Robinson explained that marking these loans as uncollectible is a recommendation by PFM in the Act 47 Recovery Plan. He stated that this would remove the loans from the City's books.

Mr. Spencer explained that two separate law firms have looked at the loans and made the same recommendation.

Mr. Marmarou stated that the City has lost another \$1.8 million on these loans.

Mr. Acosta stated that these loans were by corporations who can manipulate the system but that the City aggressively pursues citizens who are unable to pay their taxes. He suggested publicizing these businesses in a "Wall of Shame." Mr. Younger stated that this is possible in some cases.

Mr. Spencer added that there could also be defamation suits.

The meeting adjourned at 7:04 pm.

Respectfully Submitted
Linda A. Kelleher, CMC, City Clerk